

**REMARKS**

In the Office Action<sup>1</sup>, the Examiner:

rejected claims 1-8, 10, and 18-23 under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter; and

rejected claims 1-8 and 10-23 under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,771,291, to DiStefano, III ("DiStefano").

By this reply, Applicant has amended claims 1 and 8. No new matter is added by this amendment. Claims 1-8 and 10-23 are pending.

Applicant respectfully traverses the rejection of claims 1-8, 10, and 18-23 under 35 U.S.C. § 101.

Claim 1 has been amended to recite a "repository" which is "stored in a computer-readable medium." Claims 1 and 8 are both drawn to "systems" and are therefore drawn to a statutory category of invention. Here, the claimed "system" is configured to carry out a process. Applicant asserts that a "system" which comprises at least one "computer-readable medium" that is used in carrying out a process is statutory subject matter under 35 U.S.C. § 101. Applicant further asserts that the "means" recited in claims 1 and 8, if not tangible themselves, are clearly associated with tangible articles such as the claimed "computer-readable storage medium." Accordingly, Applicant asserts that independent claims 1 and 8 are drawn to statutory subject matter. Claims 2-7 and 10 depend from either claim 1 or claim 8 and are statutory for at least the

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<sup>1</sup>The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

reasons presented above. Applicant, therefore, respectfully requests that the Examiner withdraw the rejection of claims 1-8, and 10.

The Office Action does not articulate reasoning for the rejection of claims 18-23. Applicant believes that the rejection of claims 18-23 under 35 U.S.C. § 101 rejection is in error since no reasoning is articulated for the rejection. Accordingly, the rejection of these claims under 35 U.S.C. § 101 also should be withdrawn.

Should the Examiner continue to allege any of these claims are non-statutory, Applicant respectfully requests that the Examiner suggest a suitable amendment to overcome the rejection.

Applicant respectfully traverses the rejection of claims 1-8 and 10-23 under 35 U.S.C. § 102(e) as anticipated by DiStefano.

In order to properly establish that DiStefano anticipates Applicant's claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). DiStefano does not anticipate the claims at least because it fails to teach, or even suggest, each and every element of the claims.

Claim 1 recites, among other elements, an "interaction involving transactional business data and one or more back end systems, wherein the selected GUI components contain transactional business data and inherit properties specific to the

one or more selected GUI components from a user interface framework.” DiStefano does not teach or suggest at least this feature of claim 1.

The Office Action alleges that the “interaction” of claim 1 is disclosed by DiStefano. It states that “the interaction involv[es] transactional business data (e.g., advertising) and one or more backend systems (e.g., advertising tracking system) wherein the selected GUI components (e.g., banner) contain transactional business data (e.g., information on a user’s website) and inherit properties specific to the one or more selected GUI components (e.g., the banner inherits its design) from a user interface framework.” Office action p. 4-5.

In the Response to Arguments section, the Office Action states that “[t]he label ‘transactional business’ that Applicant gives to the ‘data’ is broad enough to be reasonably understood to comprise advertising data.” But, this is not correct.

The Office Action alleges that “transactional business data” is both “advertising” and “information on a user’s website.” Office Action p. 4-5. The Office Action fails, however, to allege how “advertising” constitutes “transactional.” There is nothing inherent to the term “advertising” that even insinuates a “transaction” of business. An advertisement cannot reasonably constitute a “transaction” because an advertisement, at best, is an invitation to enter into a transaction and is not the actual transaction of business. In that sense, an advertisement may carry advertising data, but it cannot be said to constitute “transactional business data” because the advertisement cannot constitute a “transaction” of business.

Applicant asserts that construing “information on a user’s website” also cannot constitute the “transactional business data” recited in claim 1. The disclosed

"information on a user's website" does not disclose or suggest maintaining any "transactional business data" because nothing about "information" even implies a "transaction," much less its associated "business data." The Office Action seems to give little weight to the term "transactional," which Applicant asserts is improper.

Notwithstanding, however, DiStefano discloses "a registered user can utilize STICKY PAD™ 310 to design a banner ad 910 to be used to advertise the user's website . . . banners can be modified through the addition of sounds and colors." DiStefano Col. 9 lines 35-37 and 52-54. DiStefano also discloses that "the GUI of system 100 is also capable of adding tables and cells to the website being designed in order to provide depth and perception to the website." DiStefano Col. 11 lines 39-42. Finally, DiStefano discloses "[a]s shown in FIG. 11, the selection of the log in button 215 brings up a log in menu 1150 [with multiple fields that] can include, for example, fields for the potential customer's (i.e., prospective registered user's) name, address, e-mail address, telephone number, interests, hobbies[,] and businesses." DiStefano Col. 12 lines 31-38.

This disclosure presents a number of inconsistencies with the Office Action's interpretation of claim 1. First, the Office Action alleges that a "banner" constitutes the claimed "GUI component." Office Action p. 3. The Office Action then asserts that the "banner inherits its design from a 'user interface framework'." *Id.* But, clearly, the disclosed banner does not inherit its design from a "user interface framework" because a user designs the banner ad. DiStefano explicitly discloses that the "STICKY PAD" tool allows the user to "design" a banner ad in column 9 lines 35-37. Thus, even if a "banner" can constitute the claimed "GUI component," which Applicant does not

concede, there is nothing to suggest that the claimed “GUI component inherits properties specific to the one or more selected GUI components from a user interface framework” because in DiStefano the user designs the banner. The banner is not inherited.

Second, the Office Action asserts that this “banner” contains the claimed “transactional business data” that it equates to “information on a user’s website.” *Id.* Even assuming, for the sake of discussion, “information on a user’s website” could constitute “transactional business data,” which it cannot for at least the reasons outlined above, DiStefano explicitly discloses that it is not the banner that “contains transactional business data” as the Office Action alleges.

Specifically, DiStefano discloses that an unrelated “log-in” button has fields that allow the user to input information such as his “name, address, e-mail address, telephone number, interests, hobbies, and businesses.” DiStefano Col. 12 lines 37-38. But, even if this information could constitute the claimed “transactional business data,” **the data is linked to the log-in menu and not the banner as the Office Action suggests.** Thus, even assuming that the rest of the Office Action’s interpretation of DiStefano is correct, there is nothing that discloses or suggests that DiStefano discloses “GUI components” that “contain transactional business data” as recited in claim 1 because DiStefano states that the alleged “information” is contained in a “log-in menu” and not the “banner” as the Office Action contends. Accordingly, DiStefano cannot reasonably be said to disclose or suggest each and every element of claim 1. Thus, the rejection should be withdrawn.

Independent claims 8, 11, and 19, although of different scope than claim 1, patentably distinguish the cited art for at least reasons similar to those discussed above. Claims 2-7, 10, 12-18, and 20-23 are allowable over the prior art at least due to their dependence. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-8 and 10-23 under 35 U.S.C. § 102(e).

**CONCLUSION**

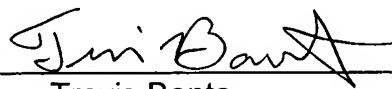
If a telephone interview will expedite issuance of this application, the Examiner is requested to call Applicants' representative whose name and registration number appear below at (202) 408-4214, to discuss any remaining issues.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: March 17, 2009

By:   
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